

REMARKSSummary of Final Office Action

Claims 1-24 are pending in this application. Of these claims, claims 10-12, 18 and 21-23 are withdrawn from consideration.

The Examiner objected to the drawings under 37 C.F.R. § 1.83(a) for failing to show every feature of the invention specified in the claims.

The Examiner stated that the trademarks of STYROFOAM and ZIPLOCK must be accompanied by generic terminology.

Claims 1-9, 13-17, 19-20 and 24 were rejected by the Examiner under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner rejected claims 1-9, 13-17, 19-20 and 24 under 35 U.S.C. § 103(a) as being unpatentable over various combinations of Barhite U.S. Patent No. 746,264 (hereinafter, "Barhite"), Dorney U.S. Patent No. 6,062,380 (hereinafter, "Dorney"), Wooster U.S. Patent No. 242,805 (hereinafter,

"Wooster"), and Hepburn U.S. Patent No. 4,927,041 (hereinafter, "Hepburn").

Telephonic Interview

In connection with this application, the Examiner granted a telephonic interview with applicant's representative, Robert Morris, which was conducted on July 25, 2002. During the telephonic interview, it was asserted that the prior art cited by the Examiner does not show or suggest the features of applicant's claimed invention. In response, the Examiner stated that a search would be conducted to find a more appropriate reference. On July 29, 2002, the Examiner phoned applicant's representative and cited Greiner U.S. Patent No. 6,253,918 (hereinafter, "Greiner") as an additional prior art reference.

Applicant's Response to
the Objection to the Drawings

The Examiner objected to the drawings under 37 C.F.R. § 1.83(a) for failing to show every feature of the invention specified in the claims. In particular, the Examiner

stated that plastic and the polystyrene foam of claims 7 and 8 must be shown in FIG. 3 or canceled from the claims.

Applicant respectfully traverses the Examiner's objection to the drawings.

Applicant respectfully submits that pursuant to 37 C.F.R. § 1.83(a), conventional features "should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation." Additionally, as stated in 37 C.F.R. § 1.84(n), "[g]raphical drawing symbols may be used for conventional elements when appropriate" as long as "[t]he elements for which such symbols and labeled representations are used [are] adequately identified in the specification."

In accordance with the above requirements, applicant's originally filed specification clearly identifies the materials that can make up material 60 shown in FIG. 3, stating that "[i]nsulating material 60 may include any insulating material known to persons skilled in the art, such as Styrofoam, ceramics, fiberglass, or anything else suitable for providing insulation" (specification, page 8, lines 27-31).

Moreover, the eighth edition of the Manual of Patent Examining Procedure (MPEP) states that "graphic drawing symbols and other labeled representations may be used for conventional

elements where appropriate." Therefore, in accordance with the guidelines set by the MPEP, applicant has used a graphic drawing symbol in FIG. 3 to represent insulating material 60. As shown on page 600-95 of the MPEP, the drawing symbol for "Heat or Cold Insulation" includes a recurring pattern of slanted (and parallel) lines in which two dashed lines follow a single solid line. This is precisely the symbol that applicant used in FIG. 3. Given the use of this symbol, in conjunction with the description in the specification, applicant respectfully submits that the drawing requirements as set by 37 C.F.R. § 1.83(a) have been met.

For at least the above reasons, applicant respectfully requests that the objection to the drawings be withdrawn.

Applicant's Response to the
Statement Regarding Trademarks

Applicant has amended the specification in accordance with the Examiner's statement that the trademarks of STYROFOAM and ZIPLOCK must be accompanied by generic terminology.

Accordingly, applicant respectfully submits that the Examiner's concern regarding the use of trademarks has been addressed.

Applicant's Response to the
Rejection Under 35 U.S.C. § 112

The Examiner rejected claims 1-9, 13-17, 19-20 and 24 under 35 U.S.C. § 112, second paragraph, as being indefinite.

Applicant respectfully traverses the rejections under 35 U.S.C. § 112, second paragraph.

Applicant respectfully submits that, contrary to the Examiner's assertion, claim 1 does not lack the requisite antecedent basis to claim "said outer wall of said label container area." It should be understood from the limitations of the claim that "said outer wall of said label container area" refers to the portion of the outer wall of the food storage unit that coincides with the label container area. Nevertheless, to expedite prosecution of this application, applicant has amended claim 1 to change "said outer wall of said label container area" to simply "said outer wall."

Therefore, applicant respectfully requests that the rejection of claim 1 under this section be withdrawn.

The Examiner also rejected claims 7 and 8 as being indefinite for contradicting the hollow channel limitation of claim 5. Applicant respectfully submits that the contradiction suggested by the Examiner does not exist in claims 7 and 8. Claim 5 states "said hollow channel includes a portion that is inaccessible ... an insulating material located within said inaccessible portion of said hollow channel." Nowhere in claim 5 is there a limitation that the entirety of the hollow channel must be a vacuum. Rather, given applicant's claim 1, which states that the "hollow channel [includes] a label container area ... that is accessible by a user for the insertion of a label therein," it should be understood that items may be placed within the hollow channel. Accordingly, just as a label may be placed in the label container area (within the hollow channel), insulating material may be placed in another (inaccessible) region of the hollow channel.

Therefore, applicant respectfully submits that claims 7 and 8 are not indefinite, as they merely set forth different materials that may be used as the insulating material within "said inaccessible portion of said hollow channel."

Accordingly, applicant respectfully requests that the rejection of claims 7 and 8 be withdrawn.

For at least the above reasons, applicant respectfully requests that the rejection of the claims under 35 U.S.C. § 112 be withdrawn.

Applicant's Response to the
Rejections Under 35 U.S.C. § 103(a)

Claims 1-9, 13-17, 19-20 and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over various combinations of Barhite, Dorney, Wooster and Hepburn.

Applicant respectfully continues to assert that none of the prior art cited by the Examiner, including Barhite, Dorney, Wooster, Hepburn and Greiner, alone or in combination, make applicant's claimed invention obvious in any manner.

In particular, applicant continues to maintain that none of the prior art cited by the Examiner shows applicant's claimed invention of a food storage container having a label container area, with a label support member, readily accessible by users for the insertion of identifying labels that may be read without opening the container. Moreover, even if the prior art could be combined, although applicant respectfully submits that it cannot be because there is no motivation to do

so suggested in any of the cited references, this combination would not achieve applicant's claimed invention.

Accordingly, applicant respectfully requests that the rejection of the claims under 35 U.S.C. § 103(a) be withdrawn.

Applicant's Response to the
New Prior Art Cited By the Examiner

On July 29, 2002, the Examiner phoned applicant's representative to cite Greiner as relevant prior art to the present invention.

Applicant, in order to more particularly point out and distinctly claim the subject matter of the present invention, has amended claim 1 to include the limitation of a food storage container that has a "label support member that is located within [a] hollow channel ... that prevents a label inserted into [the] label container area from falling to the bottom of [the] hollow channel." Applicant has also amended claims 2, 4, 6 and 10, in accordance with the above described limitation, and has added new claim 26. These new and amended claims are consistent with the teachings set forth in applicant's originally filed specification (see, for example,

applicant's specification, pages 6-7) and as shown in applicant's FIG. 1, and therefore do not add new matter.

Applicant respectfully submits that Greiner does not show or suggest applicant's claimed invention of a food storage container having a label container area (within a hollow channel) and a label support member which supports labels placed within the label container area so that they do not fall into the remainder of the hollow channel. Rather, Greiner shows a single hollow region in which, if a label were placed, the label would fall to the bottom of the hollow region.

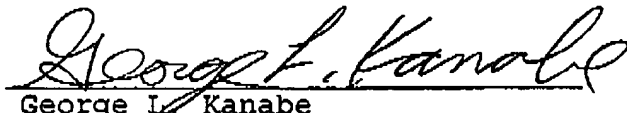
As can be seen from Greiner's FIG. 1, objects placed into the hollow region, as a result of gravitational forces, fall to the bottom. Therefore, if a label were placed in the hollow region in Greiner, the label would slip down to the bottom of the hollow region, possibly losing its orientation, making it very difficult for a user to be able to read the label while the container is in, for example, a freezer.

For at least the foregoing reasons, Greiner does not show or suggest the features of applicant's claimed invention.

Conclusion

For at least the reasons stated above, applicant respectfully submits that this application is in condition for allowance. Reconsideration and a favorable action are respectfully requested.

Respectfully submitted,



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APPENDIX A

AMENDED CLAIMS
MARKED TO SHOW AMENDMENTS

Page 3, line 8 to page 3, line 22:

-- Other types of storage containers may include plastic bags such as those offered by ZIPLOCK, the zipper closure plastic bag, or GLAD. But these bags are often not sufficient for storing foods for extended periods of time. For example, plastic bags have been known to leak and permit air to enter into the bag, resulting in freezer burn and other unwanted occurrences. This is even more likely to occur when the bags are used for an extended period of time because the plastic bags simply are not as durable as plastic storage containers. Furthermore, applying labels to plastic bags is usually impractical. The label may not stay put. In fact, some plastic bags are sold which include an exterior region that is specially designated for writing information, such as the date stored. This region, however, is also prone to smudging and erasure. --

Page 8, line 5 to page 8, line 18:

-- Storage container 10 may be formed from any of a variety of materials. For example, container 20 and/or lid 50 may be fabricated out of plastic, wood, STYROFOAM, the polystyrene foam insulation material, metal or any other suitable material for constructing container 20 and/or lid 50. It may, however, be preferable to manufacture container 20 and lid 50 from some form of plastic. The use of plastic for container 20 and lid 50, makes it easier to incorporate one or more colors or mixture of colors. Moreover, it would be advantageous to fabricate at least the portion of outer wall 24 that includes container label area 40 out of a translucent material, so that users can easily read the writing on the label without having to open lid 50 to read the label. --

Page 8, line 19 to page 8, line 35:

-- FIG. 3 shows an illustrative cross-section of a hollow channel 30 that provides increased thermal protection from the effects of cold storage. In this embodiment, inner walls 22, outer walls 24 and channel barrier 32 may be fabricated in such a way that an insulating material 60 is placed within the closed cavity therein. Insulating

material 60 may thus be located within the volume of space below channel barrier 32, as well as on the bottom of the food container. Insulating material 60 may include any insulating material known to persons skilled in the art, such as STYROFOAM, the polystyrene foam insulation material, ceramics, fiberglass, or anything else suitable for providing insulation. Insulation materials 60 may help prevent freezer burn of the food contained within container 20. Insulation material 60 may also provide additional structural support to container 20 by adding rigidity to the walls of container 20. --

APPENDIX A

AMENDED CLAIMS
MARKED TO SHOW AMENDMENTS

1. (amended) A food storage unit, comprising:

a container comprising a container top, a container bottom, an inner wall and an outer wall, said inner and outer walls forming a hollow channel there between, said hollow channel including a label container area that is accessible by a user for the insertion of a label therein, at least a portion of said outer wall [of said label container area] being translucent such that a label placed in said label container area may be read without being removed from said food storage unit; [and]

a label support member situated within said hollow channel, said label support member that prevents a label inserted into said label container area from falling to the bottom of said hollow channel; and

a lid that may be fixably attached to said container top to seal said container CLOSED.

2. (amended) The food storage unit of claim 1,
wherein said [container further comprises:

at least one barrier] label support member is
positioned parallel to said lid between said inner wall and
said outer wall.

4. (amended) The food storage unit of claim 1,
wherein said [container further comprises:

a barrier] label support member is positioned on
one side of said container parallel to said lid between said
inner wall and said outer wall that provides a surface that a
label would rest upon after being inserted into said label
container area.

6. (amended) The food storage unit of claim 5,
wherein [container further comprises:

at least one barrier] said label support member
is positioned parallel to said lid between said inner wall and
said outer wall, at least a portion of said insulating material
being positioned below said [barrier] label support member.

10. (amended) The food storage unit of claim 9,
wherein [container further comprises:

at least one barrier] said label support member
is positioned parallel to said lid between said inner wall and
said outer wall, at least a portion of said support structure
being positioned below said barrier.

26. (new) A food storage unit, comprising:

a container comprising a container top, a
container bottom, an inner wall and an outer wall, said inner
and outer walls forming a hollow channel there between, said
hollow channel including a label container area that is in
close proximity to said container top, said label container
area that is accessible by a user for the insertion of a label
therein, at least a portion of said outer wall [of said label
container area] being translucent such that a label placed in
said label container area may be read without being removed
from said food storage unit; and

a lid that may be fixably attached to said
container top to seal said container CLOSED.